

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
COUNTY OF WAKE 2015 JUL -2 P 2:17 SUPERIOR COURT DIVISION
14 CVS 14791

NORTH CAROLINA STATE BOARD OF EDUCATION,)
WAKE COUNTY, C.S.C.)

BY)

Plaintiff,)

ORDER

V.)

THE STATE OF NORTH CAROLINA and)

THE NORTH CAROLINA RULES)

REVIEW COMMISSION)

Defendant.)

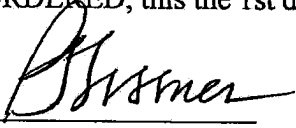
THIS MATTER came before the undersigned Resident Superior Court Judge on June 29, 2015 upon Defendants' Motion to Dismiss pursuant to Rules 12(b)(1), 12(b)(2), and 12(b)(6) of the North Carolina Rules of Civil Procedure, and Plaintiff's Motion for Summary Judgment pursuant to Rule 56 of the North Carolina Rules of Civil Procedure. Robert F. Orr and Andrew H. Erteschik appeared on behalf of the Plaintiff. Special Deputy Attorneys General Olga E. Vysotskaya de Brito and Amar Majmundar appeared on behalf of Defendants.

After careful consideration of the motions, the parties' briefs in support and opposition, and the arguments made by counsel, this Court finds and concludes as a matter of law the following;

1. The complaint, when liberally construed and treated in a light most favorable to the Plaintiff, states a claim upon which relief can be granted on, and
2. Upon consideration of the plain language of the North Carolina Constitution, and the verified complaint, there is no genuine issue of material fact and Plaintiff is entitled to judgment as a matter of law pursuant to Rule 56 of the North Carolina Rules of Civil Procedure.

THEREFORE, Defendants' Motion to Dismiss is denied and Plaintiff's Motion for Summary Judgment is allowed.

SO ORDERED, this the 1st day of July, 2015.

A handwritten signature in black ink, appearing to read "Gessner", is written over a horizontal line.

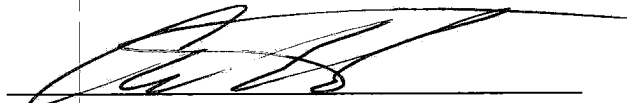
Paul G. Gessner
Resident Superior Court Judge

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Order, which was sent to the undersigned by U.S. mail and received by the undersigned on July 14, 2015, to the following persons at the following addresses:

Amar Majmundar
amajmundar@ncdoj.gov
Charles G. Whitehead
cwhitehead@ncdoj.gov
Olga Vysotskaya
ovysotskaya@ncdoj.gov
NC Department of Justice
P.O. Box 629
Raleigh, NC 27602
Counsel for Defendants

This the 14th day of July, 2015.



Andrew H. Erteschik